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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Belgium

1. The Committee considered the initial report of Belgium (CRC/C/11/Add.4) at its 222nd, 223rd and 224th meetings (CRC/C/SR.222-224), held on 31 May and 1 June 1995, and adopted* the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its very comprehensive report, and welcomes the open and self-critical approach taken by the Government of Belgium in preparing this report. It also wishes to express appreciation to the State party for the submission of written replies to its list of issues (see CRC/C.9/WP.4), as well as for the additional information provided during the course of the discussion.

3. The presence of a high-level delegation enabled the Committee to engage in a frank and constructive dialogue with those directly responsible for the implementation of the Convention, at the federal and communities levels.

B. Positive factors

4. The Committee welcomes the openness of the delegation to review of the declarations made upon ratification and its willingness to consider withdrawing them.

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* At the 233rd meeting, held on 9 June 1995.

5. The Committee welcomes the measures taken by the Government of Belgium, since the entry into force of the Convention in 1992, to promote and protect the rights of the child. In this connection, the Committee particularly welcomes the adoption of a comprehensive legal framework to ensure full conformity with the Convention and the adoption of a recent law which extends the national jurisdiction in cases of child prostitution and pornography and allows the State to prosecute any person accused of "sex tourism"; the revision of article 371 of the Civil Code, which will now provide for "mutual respect between parents and children"; the steps taken in view of the ratification of the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption; the announced intention to revise the Civil Code with a view to lowering the minimum age of consent to adoption, in the spirit of article 12 of the Convention; as well as the establishment of institutions and mechanisms for the promotion and protection of the right of the child by the Communities. The Committee also expresses its appreciation for the launching of awareness-raising campaigns for the prevention of child abuse and neglect.

6. The Committee welcomes the fact that the Convention is self-executing and that its provisions may be, and in practice have been in several instances, invoked before the court. It also notes with satisfaction the fact that Belgium applies the principle of the primacy of international human rights standards over national legislation in case of conflict of law.

7. The Committee notes with satisfaction that during the present period of economic recession, attention has been paid by the authorities with a view to ensuring that the budgetary resources for the social welfare of the most disadvantaged groups of the population and, among them children, will not decrease in the State party.

C. Principal subjects of concern

8. The Committee would like to suggest that the State party consider establishing a permanent national mechanism for the purpose of coordinating the implementation of the Convention and it notes the need for an effective overall system for the collection of data on the rights of the child at the federal level, including in particular on especially vulnerable groups of children.

9. The Committee is concerned about the application of the law and policy concerning children seeking asylum, including unaccompanied children. It is particularly concerned that unaccompanied minors who have had their asylum request rejected, but who can remain in the country until they are 18 years old, may be deprived of an identity and denied the full enjoyment of their rights, including health care and education. Such a situation, in the view of the Committee, raises concern as to its compatibility with articles 2 and 3 of the Convention.

10. With regard to the provisions of article 2 of the Convention, the Committee is concerned that children belonging to disadvantaged groups of the population appear more likely to be placed in care. In this regard, the

Committee recalls the importance of the family in the upbringing of a child and emphasizes its view that the separation of a child from his or her family must take the child's best interest as a primary consideration.

11. The Committee expresses its concern about the possibility of relinquishment of jurisdiction provided for in article 38 of the Young Persons' Protection Act which allows for young persons between 16 and 18 to be tried as adults and thereby face the imposition of a death sentence or a sentence of life imprisonment. The Committee is also concerned that in accordance with the provisions of article 53 of the same Act, children may be kept in prison for a period of 15 days and be kept in isolation.

D. Suggestions and recommendations

12. The Committee wishes to encourage the State party to consider reviewing the declarations made upon ratification of the Convention with a view to considering withdrawing them.

13. The Committee wishes to suggest that the State party envisage the establishment of a permanent mechanism of coordination, evaluation, monitoring and follow-up for policies aiming at the protection of the child to ensure that the Convention on the Rights of the Child is fully respected and implemented, at the federal and communities levels. In this respect and as part of the ongoing efforts of the State party to promote and protect the rights of the child, the Committee suggests that ways and means be established to facilitate regular and closer cooperation between the federal and communities governments in cooperation with non-governmental organizations involved in monitoring the respect for the rights of the child in the State party.

14. The Committee recommends that Belgium envisage the creation of a permanent mechanism of data collection at the national level, in order to have an overall assessment of the situation of children in the country and to ensure a comprehensive and multidisciplinary evaluation of progress and difficulties in implementing the Convention.

15. The Committee is of the opinion that efforts to harmonize national legislation with the provisions of the Convention should be further pursued, in particular as regards articles 38 and 53 of the Young Persons' Protection Act of April 1965 with a view to ensuring its full conformity with the Convention. The Committee wishes to encourage the State party to continue to take steps with a view to ensuring the abolition of the death penalty in peace as well as in wartime. The Committee further encourages the State party to consider reforming its legislation with a view to ensuring the prohibition of corporal punishment within the family.

16. The Committee would also like to suggest that further consideration be given in the light of article 12 of the Convention to ways of encouraging the expression of views by children and those views being given due weight in the decision-making processes affecting their lives, in particular in family life, at school and local levels as well as within the judicial system, including in situations where the child participates in the proceedings as a witness.

17. The Committee would like to encourage the State party to further develop an ongoing and systematic approach to making the principles and provisions of the Convention widely known to children and adults alike. In addition, the Committee recommends that the principles and purposes of the Convention be made widely known in the languages spoken in Belgium, and translated also into the languages of major refugee and immigrant groups. In view of the adoption by the General Assembly of resolution 49/184 proclaiming the United Nations Decade for Human Rights Education, the Committee encourages the State party to consider using this opportunity to promote the incorporation of education about the Convention on the Rights of the Child in school curricula. It is the view of the Committee that it is important that the teaching methods used in schools should reflect the spirit and philosophy of the Convention and the aims of education laid down in its article 29.

18. Consideration should also be given to incorporating education on the provisions and principles of the Convention in training programmes for various professional groups, including teachers, social and health workers, immigration officers, law enforcement personnel, judges and personnel in care and detention institutions.

19. The Committee wishes to encourage the State party to ensure that applications for the purpose of family reunification in the cases of refugees and migrant workers are dealt with in a positive, humane and expeditious manner.

20. The Committee encourages the Government of Belgium to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

21. Finally, the Committee appreciates the willingness of the Government of Belgium to publish the initial report of Belgium, as well as the summary records of the meetings with the Committee and the concluding observations of the Committee on the report, and recommends that these documents be disseminated as widely as possible in the languages spoken in Belgium.